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International Court of Justice

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Official transcript of the International Military Tribunal in the matter of The United States of America, the French Republic, the United Kingdom of Great Britain and Northern Ireland, and the Union of Soviet Socialist Republics, against Hermann Wilhelm Goering, et al, Defendants, sitting at Nurnberg, Germany, on 13 April 1946, 1000-1300, Lord Justice Lawrence presiding.

ERNST KALTENBRUNNER-Resumed

CROSS-EXAMINATION--Continued

BY COLONEL AMEN:

Q Defendant, as I recall it, you testified that you had no knowledge of the Hitler Commando Order of 8 October 1942, until some time in ;945. Is that not correct?

A I don't think so. I don't think I did say that. I think that this is the order--

Q Well, that was your testimony yesterday, according to the record, that you had no knowledge of the Hitler Commando Order of 8 October 1942 until some time in the year 1945. Is that not correct? Is that not now your position?

A I don't think I did reply in that form.

Q Well, what is the fact? When did you first have knowledge of the Hitler Commando Order of 8 October 1942?

I am speaking of the order of 18 October, 1942, and not 8 October. When did you first have knowledge of that?

A I can't tell you that exactly.

Q All right.

A But if I had the document read out to me, I would probably find that it would be the same as was mentioned in the Armed Forces Report.

Q All right. And you have also denied the testimony of your own witness, Mildner, concerning the existence of a decree issued in July or August 1944, under which the Security Police were to execute members of allied commando groups after questioning them. That is correct, is it not?

A I have not been asked that at all.

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Q Well, I beg your pardon, but never mind.

I will show you document number 535-PS, which will become USA Exhibit 807, and, before anything else, I want to ask you whether it is your own signature, in your own handwriting, that appears at the bottom of that document.

(The document was submitted to the witness.)

A That is my signature, yes.

Q Oh, it is your signature, is it?

A Yes.

Q You admit that? Is that a fact?

A Yes.

Q And there is no doubt about it in your mind?

A That is my signature, yes.

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Q Now, when you were interrogated before this trial you denied that that was your signature, did you not?

A I don't believe so, no.

Q Well, I will read you your testimony on that point, to see whether that helps you to remember whether you denied it or not.

"Answer: From that it can only be seen that the Armed Forces intended to write a letter to me; whether rightly or wrongly, and whether I was the right authority to write to, is open to question. In any case, the Armed Forces wanted to get in touch with the Gestapo, as can been seen from this exchange of letters, and I am convinced that an officer of the Gestapo, namely, that one mentioned on top of the letter, has written this document -- pointing to 535-PS.

"Question: Well, this is the letter that you know nothing about, but that, nevertheless, established just how you accomplished your desire by writing to the Supreme Command of the Armed Forces. That is very clear.

"Answer: But I deny that I have written this letter.

"Question: No, you just didn't know about it, but now do you deny it?

"Answer: I not only did not know the Hitler Order, but I also did not know this letter.

"Question: But you acknowledged your signature?

"Answer: I did not say this is my signature; I only said it resembles my signature; and I also said it is possible that a rubber stamp bearing my signature was used."

A No.

Q "I cannot recall a letter of such contents signed by myself.

"Question: Would it be any more convincing to you if you saw the original letter, signed in ink?

"Answer: I could be more convinced, but it would still not prove that I signed in ink."

Did you make those answers to those questions, defendant?

A Naturally, I don't remember it in its wording, but, Mr. Prosecutor, I would like to reply to you this way. The question of

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my signature is, of course, always used to get me muddled, and it has been put to me hundreds of times during interrogations. This is the first time I have seen this document, and I have immediately stated, "Yes, this is my signature." I know my signature; I know what it looks like. However, you have also put signatures to me which certainly did not originate from me.

Apart from that, you can see from the date of the letter, the 23rd of January, 1945--it is correct that in 1945, as you put it to me, I did have knowledge of the matter, but a Hitler order issued in 1942 could not possibly be known to me. And if, in your interrogation, I have stated that I have not written this letter, then that is confirmed by the fact that a figure appears on the top, IV-A-2-a, which figure makes it clear that the letter was written in the department by some official or other.

That is what I mean when I say that I had not written the letter, that it may have been submitted to me for signature, together with thousands of other letters. That is, of course, something that I cannot deny. But you can't draw the conclusion from that, that I must have had certain knowledge of the whole affair. You have the wrong conception of thework in that department, and you are obviously ignorant of the scope of the office that I took over, without knowing police work; and it was not to carry out police functions, but to organize the intelligence service and to run it. However, you have no conception of that work.

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THE PRESIDENT: Answer questions and don't make speeches.

Q Defendant, isn't the signature on that document before you, No. 535-PS, US 807, precisely the same and identical with your signature as it appears on Exhibit No. 3803-PS, US 802? Just look at the two signatures, and tellthe Tribunal if they are not identical.

A No, I have never signed like this. I have always sign ed like that--Doctor K--as it is on the document.

Q How about the handwriting? Does that look the same to you, Defendant, or does it look different?

A Certainly there is a certain resemblance, but I think it has happened to everybody in this courtroom that in his absence one of his officials signed a letter with his own signature.

THE PRESIDENT: The Tribunal will be able to see the signatures and judge for themselves.

COLONEL AMEN: Very good, sir.

Q Now, do you have the exhibit before you--535-PS?

A Yes.

Q You will note that that emanates from IV A 2 a, as appears in the upper corner under Chief of the Security Police and of the SD.

A Yes. That letter originated from me, you said?

Q That is addressed to the High Command of the Armed Forces, right?

A Yes.

Q And that it refers to the Fuehrer's order of 18 October 1942, as well as to the other Fuehrer orders referred to in the testimony of Mildner, namely, the Fuehrer orders of 18 August 1944 and 30 July 1944; correct?

A Mr. Prosecutor, I didn't know that Mildner made a statement in this connection. Neither is such a statement known to me nor has it been put before me.

Q All right. Do you note that this document refers to the Fuehrer decrees of 18 October 1942, 18 August 1944 and 30 July 1944? Yes or no, please.

A Yes. It says so in this letter.

Q So that on 23 January 1945, when you wrote this letter, you obviously had knowledge of those decrees, right?

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A That is incorrect insofar as the leading point--as far as I am conerned--in this letter is contained in the fifth and sixth last lines, where it says that there cannot be any claims in favor of PW's according to the Geneva Convention. If, therefore, in an extreme overload of a working day of my activity I really have had this letter put before me, then it would be clear that my first glance would go to the spot where I would have to sign, and then --

THE PRESIDENT: Defendant, that is not an answer to the question. The question was whether you knew of the order of the 18th of October, 1942, of the 30th of July, 1944, and the 18th of August, 1944, when you wrote this letter. Did you know?

A No, I did not, Mr. President, but I should very much like to clarify the point. It is clear to me that this was a letter dealing with agents who cannot come under the Geneva Convention because of their not being prisoners of war, and you can't deny the privilege of a power which is at war that men who do not fall under the regulations of the Geneva Convention should be treated by security police authorities. That is the right of any power that is at war, and that includes Germany, and these were rights which had been exercised in England and other countries.

THE PRESIDENT: You are not here to argue your case now; you are here to answer questions.

BY COLONEL AMEN:

Q Defendant, you testified, did you not, that you first acquired knowledge of the case of the British fliers who escaped from Stalag Luft 3 in March of 1944 some six weeks after the escape occurred; isthat not correct?

A Yes. I assume it was about six weeks afterwards, at any rate. It was at the time that the foreign office demanded information on it, when the department chiefs came to me and I in turn told them to go and see Himmler.

Q But when you were interrogated about this matter before the trial you testified as follows, did you not:

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"Question: You remember the case of the eighty British fliers who escaped from Stalag Luft 3 that took place in March 1944?

"Answer: That case is unknown to me.

"Question: General Westhoff attempted to find out from the Gestapo what had happened to these men?

"Answer: If he had negotiations with the Gestapo he did not negotiate with me.

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"Question: What do you say about the general proposition that the escaped prisoners were turned over to the Gestapo?

"Answer: Such cases are not known to me."

Did you make those answers--yes or no?

A Maybe I did, but I want to point out to you that that is obviously misleading. I have never heard of eighty escaped fliers, for instance. We are only talking about fifty now.

Q Eighty escaped and fifty were killed

A And apart from that, General Westhoff in this connection stated that he didn't discuss the Sagan case with me but that it reached him through the state police and that he has negotiated regarding the taking over of the prisoner of war system, and in that connection during those negotiations Sagan was referred to.

Q Now, Defendant, you testified that you had no knowledge whatever of the fact that Einsatz groups of the security police and SD were operating in the USSR until long after you had become chief of the RSHA in January, 1943, is that not correct?

A Yes.

Q And you still say that is correct?

A Yes.

Q You deny that you ever knew that these Einsatz groups carried out the extermination of Jews in the USSR until long after you had become chief of the RSHA?

A It wasn't clear to me until I had the differences with Himmler and Hitler late in 1943. That was when I heard about it.

Q And you admit, I take it, that you were a higher SS and police leader in Austria in 1942, right?

A Yes.

Q And Schirach was Reich Defense Commissioner in Vienna at that time, was he not?

A I don't know when he became such, but I must point out that authoritative powers of higher SS and police leaders were divided into three different classes. In 1941, when I became higher SS and police leader, the jurisdiction was very much smaller than it was, for instance

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at the end of the war.

Q Now, if the Tribunal please, I have a document which arrived by airplane yesterday of which there is only one original copy and which therefore we have not been able to get translated, so I have arranged, if it is satisfactory to the Tribunal, for the interpreter to read the excerpts from that original document, which was taken from Schirach's personal files in Vienna, and then submit the original document to the Court and have it processed just as quickly as we are able to do so. Or perhaps the Tribunal would like to see the document first. It is an original document.

THE PRESIDENT: You will read it so that it will go through into German?

COLONEL AMEN: Yes, Your Lordship.

THE PRESIDENT: Very well.

COLONEL AMEN: This is Document No. 3876-PS. It is a report issued by Heydrich to all the higher SS and police leaders and Reich defense commissioners on the activities of the Einsatz groups in the USSR during the month of January, 1942, and on the distribution list appears the name of this Defendant. Will you read it? It will be US 808.

THE INTERPRETER: On the right-hand side the document bears the initials in ink SDH, and then several symbols; VR, VH, 403L-519-4BG. And below that 13A0G. At the left top:

The higher SS and Police Leaders attached to Reich Governor at Vienna, upper and lower Danube, and in the armed forces district No.17.

To the Inspectors of Order Police.

Below that there are several file and reference numbers.

The document bears the heading "Secret".

It is dated Vienna, 14 October 1941.

Report regardin the present facts.

THE PRESIDENT: Is that right--14th of October, 1941?

THE INTERPRETER: Yes, 14 October 1941.

THE PRESIDENT: The previous date that was given was January 1942. What is the explanation of that?

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COLONEL AMEN: It covers the month--I think there are two different documents. You are giving the date on one. There is a different date on the other. Is that not correct?

THE INTERPRETER: That is correct.

COLONEL AMEN: Well, give us the date on the other document so the record will be clear.

THE PRESIDENT: Colonel Amen, we shall be able to understand when we see the document.

COLONEL AMEN: Yes, Your Lordship.

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THE INTERPRETER: The date of the second document is April 23, 1942.

COLONEL AMEN: Go ahead.

THE INTERPRETER: "Subject: Report on experience regarding rights in the East. -- Reference:" and then come a number of reference numbers and initials.

"The above decree of the Fuehrer SS and Chief of the German Police in the Minister of the Interior, together with one copy of the experience reports of the Army Group Commander North (?), and the SS Police Division, is herewith handed to you for your information and exploitation." The order is signed "Nigel."

COLONEL AMEN: Willyou just go on to the distribution list and read, if you find it on the list, this defendant's name.

THE INTERPRETER: The name of the defendant is not on the distributor. I am coming to the next document. It is not contained in this document and I am now reading the second document.

"Berlin, 27 February 1942. The Chief of the Security Police and the SD, 4-A-1," and then several different file references. "Secret Reich Matter. Subject: Activity and situation report No. 9 of Special Action Groups of the Security Police and the SD in the USSR. Attached hereto---

COLONEL AMEN: Just a minute. He is reading thewrong document, your Lordship. We willhave it straight in a minute.

THE INTERPRETER: I am told we are reading the right document. It is the right document, I continue.

"Herewith attached, I submit to you the Reich activity report of the situation regarding activities of Special Action Groups of theSecurity Police and of the SD in the USSR. Situation reports in the future will be sent to you currently. (Signed) Heydrich."

Then there is a stamp: "The Commissar for the Reich Defense for the Armed Forces, District 17, received5 April 1942," and then follows the distributor and the 13th name on it states "To the Higher SS and Police Leader, SS Gruppenfuehrer Dr. Kaltenbrunner."

COLONEL AMEN: No, if you will skip to "C" on that document ---

THE INTERPRETER: I now read from page 9 of the document, an extract fro

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the heading "C-".

"The attitude of the Jews is still clearly hostile to the Germans and criminal. We are aiming at cleansing the Eastern countries completely of Jews. Shootings are carried out everywhere in such a manner that they are hardly noticeable to the public. The population, and even the remaining Jews, are frequently becoming convinced that the Jews are merely being resettled. Estonia has already been cleared of Jews. In Lithuania, the number of Jews in Riga, of which there were 29,500, has now been reduced to 2,500. In Dueneberg there are still 962 Jews living, who are urgently needed for labor purposes."

I am now skipping several paragraphs and I continue:

"In Lithuania there are now at Kauen still 15,00, in Schaulen 400,500, and in Wilna another 15,000 Jews who are also required for the purpose of labor. In White Lithuania the cleansing is continuing. The number of Jews in the part which has been handed over to the civilian administration amounts to 139,000. 33,210 Jews have, in the meantime, been dealt with by the Special Action Group of the Security Police and the SD and were shot."

I now skip the rest of this extract and continue by reading another document. This is dated "Berlin, 23 April 1942", and the signature or the initial is illegible. It has the heading of the"Chief of the Security Police and of the SD, IV-A-1, and several file references. It is a secret Reich matter. This document, which is signed by Heydrich and which was received on the 20th of April, 1942, states on the distributor, under No. 14, "To the Higher SS and Police Leader, SS Gruppenfuehrer, Dr. Kaltenbrunner -- Vienna."

I now read from page 11 of the report and I read an extract headed "'C-Jews' The manner and system, the method used in connection with the cleansing of the Jewish problem was in the territories, in the report, very different. Since the Eastern Territory is mostly free of Jews and since the few remaining Jews, who are urgently required for labor purposes, have been put into a ghetto, it was for the task of the Security Police and the SD in this connection to round up those Jews who were concealing themselves in the country districts. Repeatedly, Jews were apprehended who had left the ghetto without permission or who weren't wearing the Jewish Star. In Riga, there were three Jews who had been sent to the ghetto from the Reich, who had escaped. They were apprehended and they were publicly hanged in the ghetto. During large-scale anti-Jewish actions, in Minsk 3,412 Jews, in Wilecka 312, and in Barabowitschi 2,007 Jews were shot."

I now skip three paragraphs and continue:

"In the remaining territories of the Eastern Front, it was the task of the Security Police and the SD, apart from action against individual political or criminally prominent Jews, to generally clean up larger dwellings, larger places and towns. In Rakow alone 15,000 and in Artenowsk 1,224 Jews were shot, so that these places are now free of Jews. In the Crimea 1,000 Jews and Gypsies were executed."

That is all.

BY COLONEL ALLEN:

Q Defendant, do youstill have the temerity to tell this Tribunal that you knew nothing about the operations of these Einsatzgruppen?

A Yes.

Q Until after you took over as Chief of the RSHA?

A At the top lefthand corner of the document, it becomes clear that the Higher SS and Police Leader --

THE PRESIDENT: Answer the question and then you can look at the document afterwards. Do you still say that you knew nothing about these Einsatzgruppen?

THE WITNESS: I have no knowledge of the contents of this document. I want to point out that the Inspector of the Order Police is the department which, on the 22nd of October 1941, dispatched this letter -- Reports on

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experiences in the battle at the Eastern Front and the use of the Security Police and SD, which had been compiled during that period, firstly by order of Himmler or Heydrich and not due to my orders. This document can in no way prove just what my attitude was to that whole question. If it says on the distributor that the General Higher SS and Police Leader and all service departments were included in it, to whom these reports were sent, then I do not regard that as proof that those departments — that is to say, all men who were working in these departments, must necessarily have had knowledge of this report. You can't assume that reports referring to territories, in which the official in question had no jurisdiction whatsoever or no influence, were actually taken cognizance of; that such crimes were committed in the East, that cannot today be doubted at all but what you have to investigage is whether intellectually and legislatively and from the point of view of jurisdiction, I have to stop them, and all that I must definitely deny.

BY COLONEL AMEN:

Q Defendant, that was just one of a regular series of month reports, a copy of which went to you every single month; isn't that a fact? Yes or no?

A I don't know. I don't know how often they did come. This is the first time that I see that report here today. The fact that such reports were made regarding all battle zones either by the Security Police or by the Order Police or by the Armed Forces, that they were distributed all over the Reich, that of course cannot be denied.

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experiences in the battle at the Eastern Front and the use of the Security Police and SD, which had been compiled during that period, firstly by order of Himmler or Heydrich and not due to my orders. This document can in no way prove just what my attitude was to that whole question. If it says on the distributor that the General Higher SS and Police Leader and all service departments were included in it, to whom these reports were sent, then I do not regard that as proof that those departments — that is to say, all men who were working in these departments, must necessarily have had knowledge of this report. You can't assume that reports referring to territories, in which the official in question had no jurisdiction whatsoever or no influence, were actually taken cognizance of; that such crimes were committed in the East, that cannot today be doubted at all but what you have to investigage is whether intellectually and legislatively and from the point of view of jurisdiction, I have to stop them, and all that I must definitely deny.

BY COLONEL AMEN:

Q Defendant, that was just one of a regular series of month reports, a copy of which went to you every single month; isn't that a fact? Yes or no?

A I don't know. I don't know how often they did come. This is the first time that I see that report here today. The fact that such reports were made regarding all battle zones either by the Security Police or by the Order Police or by the Armed Forces, that they were distributed all over the Reich, that of course cannot be denied.

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Q That is enough for me.

Did you know about a letter written by your attorney, seeking evidence on your behalf at this trial?

A I have not until today discussed such a letter with my defense counsel, at least he has not informed me.

Q Well, are you not familiar with the fact that he wrote a letter to the Mayor in Oranienburn near Berlin and received a reply to that letter to be used on your behalf?

A No. Please ask him and he will tell you he has not informed me of that.

Q Then I will refer you to document number --

THE PRESIDENT: Colonel Amen, are you entitled to go into professional matters between the defendant and his counsel?

COLONEL AMEN: I believe so in this instance, your Lordship, because the letter was sent to us deliberately by the recipient of the letter with the expectation that it would be used by us. This is no confidential communication. It was a letter --

THE PRESIDENT: Will you let the Tribunal see the letter?

DR. KAUFFMANN: Mr. President, this is the first time that I hear of this matter. If the document was supposed to have been addressed to me would it be possible for me to have a look at it before it becomes a subject of this trial?

COLONEL AMEN: Sure.

THE PRESIDENT: Yes, certainly, let him look at it first.

COLONEL AMEN: If your Lordship please --

DR. KAUFFMANN: May I clarify it, Mr. President?

THE PRESIDENT: Well, we had better hear from Colonel Amen first because he is wanting to introduce the document.

Yes, Dr. Kauffmann, what do you want to say now?

DR. KAUFFMANN: No doubt the Tribunal will havenoticed --

THE PRESIDENT: We have not seen the document.

DR. KAUFFMANN: I have seen the document, yes.

THE PRESIDENT: I say we have not seen it yet. We have allowed you to see it first in order that you may make any objection to it that you want to make before we see it and then we will look at it.

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DR. KAUFMANN: Yes, I see.

Mr. President, I am of the opinion that this is an unfair intervention and and infringment of the rights and duties of the German Defense. The whole world may read this document. It is an inquiry made to the Mayor's office at Oranienburg.

Oranienburg was a large concentration camp. Since, in particular after consulting with my colleagues, I had the task of clarifying the question of how much the German people knew, for instance. I had written to the Mayor's office and asked questions which everybody may read and I have asked that these questions be answered and I had intended that, if possible, the answers would be submitted to the Tribunal. The same questions have been sent out to other towns and I have already submitted these documents for translation and shall submit them to the Tribunal later.

But it is an impossible state of affairs that a letter of a defense counsel and the reply given to that defense counsel should be submitted here by the Prosecution and disclosed.

THE PRESIDENT: Wait a minute, Dr. Kauffmann. What the document that Colonel Amen was offering in evidence was not your letter to the Mayor of Oranienburg nor his answer to you.

COLONEL AMEN: Yes, it was.

THE PRESIDENT: I beg your pardon, I thought you said it was a letter that was sent to the Prosecution.

COLONEL AMEN: I said a copy was sent to the Prosecution, as I understand it, not only by the person who received it, there was no covering letter, but also turned over to the British Prosecution in a letter dated 2 April, 1946 from Major Wurmser.

THE PRESIDENT: Yes, I understand now. I do not think you said before it is a copy. What I understood was it might have been sent to you by mistake. If it was a copy of a letter which was sent to Dr. Kauffman then the position is clear as to what it was.

COLONEL AMEN: That is my understanding of it, sir, and it is a copy of his letter but I know of no priviledge whatsoever or of any definition --

THE PRESIDENT: What do you mean by "a copy of his letters"? a copy of the letter sent to Dr. Kauffmann?

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COLONEL AMEN : Sent by Dr. Kauffmann to the Mayor of Oranienburg and a copy of the reply made by the Mayor to Dr. Kauffmann, and I think you will see --

THE PRESIDENT: Yes, I see.

COLONEL AMEN: I think you will see if Your Lordship reads the communication how it is it came directly to our attention.

DR. KAUFFMANN: May I say one more thing, only two or three sentences, please? I consider the presence of these documents a particularly severe infringement of the rights of defense to look into documents of the Prosecution and the thought would never have struck us that documents of the Defense, which were in favor of the Prosecution should be submitted to the Tribunal.

This correspondence is between myself and the recipient of the letter and an answer to that letter and how is it possible that the Prosecution should interfere in such personal connection? I do not think it is fair.

COLONEL AMEN: If Your Lordship Pleases, I think I can clear the whole thing up. --- This is a letter dated 2 April, 1946 from Major Wurmser to the British Prosecution and it reads:

"Attached please find the original correspondence regarding Oranienburg. In accordance with your request I have ascertained that this correspondence was received in the following way,

"It came addressed to the Prosecution and was delivered to the General Secretary. The original was apparently sent directly to Dr. Kauffmann and the sender, the Mayor of Oranienburg, a Mr. Klausmann, dispatched a carbon copy to the Prosecution at the same time, which not only consisted of his answer but also of the letter which was sent to him by Dr. Kauffmann."

THE PRESIDENT: Yes, I think we understand the circumstances now.

COLONEL AMEN: So I think it was sent to the Prosecution for the very purpose that I am now endeavouring to utilize it.

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THE PRESIDENT: Colonel Amen, apart altogether from the question of privilege between counsel and his client, how do you say that this document which is a latter apparently from a private individual addressed to Dr. Kauffmann a copy of which is sent to you is evidence at all?

COLONEL AMEN: Because, your Lordship, there is included in the defendant's document book a letter which is on precisely this same point. In other words, this defendant has raised this point in his own defense.

THE PRESIDENT: That is not quite the point. This letter to Dr. Kauffmann, of which you have a copy, is not as I understand a sworn statement.

COLONEL AMEN: It is not sworn, no sir.

THE PRESIDENT: How does it become evidence then? The witness is not here.

COLONEL AMEN: It has the same probative value that many letters introduced here in evidence have. In fact, I think it has considerably more than many of them because it is a letter from an official, from the mayor, who has conducted an inquiry and has ascertained what I consider to be one of the most important matters of the case, namely whether --

THE PRESIDENT: No, I do not want to hear at the moment what is in the letter.

COLONEL AMEN: I cannot think of a thing that was more pertinent than this letter or more important to be brought out at this trial, particularly when it -- well, you do not want me to go into that, particularly when it is something which the defendant has sought to interpose as his own defense and which now turns out --

THE PRESIDENT: But he has not sought to introduce it for his own defense.

COLONEL AMEN: I say he has sought to introduce that issue with the letter in his document book so even if it were not otherwise perhaps relevant it surely becomes so when the defendant has raised that precise issue in his own document book. But even aside from that it seems to me that it is one of the most important issues in this case.

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I will not characterize it in words since your Lordship does not wish me to but I can hardly think of anything more pertinent than the matter set forth there in the form of an official communication.

THE PRESIDENT: The only question I was asking you was how the particular document which is an unsworn document came to be competent evidence. Has it been seen by the witness who is under cross-examination?

COLONEL AMEN: Well, as an official communication, sir, to his counsel, in the course of discharge of his official duties as a mayor. It is a part of his job.

THE PRESIDENT: Yes, Dr. Kauffmann.

DR. KAUFFMANN: Mr. President, I do not want to talk about procedure. I do not want to go at great length into the question of procedure, which has been touched upon, but I wish to emphasize that these two documents have nothing to do with the case of Kaltenbrunner as such. As I have just said, everyone can look at the document but, because this document has nothing to do with Kaltenbrunner, it has right from the very beginning no value as evidence.

COLONEL AMEN: It has even further probative value, Your Lordship, in that if the matters referred to in this letter were known, as described in the letter, to the people in Oranienburg, surely the person who occupies the position as Chief of the RSHA in Germany must certainly have the knowledge which the smallest local civilian appears to have.

THE PRESIDENT: The Tribunal will adjourn.

(A recess was taken.)

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THE PRESIDENT: The Tribunal rules that the document is inadmissible.

COLONEL AMEN: That was to have been my last document, Your Lordship, so that concludes the cross-examination, except for one point. There is a witness named Hoess, who is called on behalf of the defendant, and through whom I would like to introduce two exhibits. If he is not to be called, however, then I would like to introduce those exhibits through the defendant. Therefore, I am wondering whether we could obtain a definite statement as to whether or not the witness Hoess is actually to be called by the defense.

THE PRESIDENT: Dr. Kauffmann, are you proposing to call Hoess?

DR. KAUFFMANN: Yes.

THE PRESIDENT: You are? Very well.

DR. KAUFFMANN: I have no further questions to put to the defendant.

THE PRESIDENT: I am afraid I did not hear what you said.

DR. KAUFFMANN: I have no further questions to put to the defendant.

COLONEL SMIRNOV: Mr. President, we have a few questions to put to the defendant.

THE PRESIDENT: Colonel Smirnov, we understood the other day that the counsel for the prosecution had agreed that there should only be one cross-examination of the defendant Kaltenbrunner.

COLONEL SMIRNOV: Yes, Mr. President. We only wish to beg the Tribunal to allow us to put a few additional questions to the defendant. They will not take very long, and they are quite indispensable.

THE PRESIDENT: In the opinion of the Tribunal, you know, counsel ought to settle before-hand what questions are indispensable and then have them put by the counsel who cross-examines. That is the whole object of the scheme.

Sir David, when we saw you on this subject, did you not tell us that all the prosecutors had agreed that so far as this defendant was concerned he should only be cross-examined by one?

SIR DAVID MAXWELL-FYFE: My Lord, that was the position. I understand that the Soviet Delegation have some special points, and they were going to ask, as a matter of grace of the Tribunal, whether they

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could put them. That is what my Soviet colleagues have informed me.

THE PRESIDENT: M. Dubost?

M. DUBOST: My explanation will be very brief, Mr. President. In principle, the prosecution entrusts one man to ask all these questions. However, it is impossible for the entire investigation and examination to be carried out by one member of the prosecution only, because we do represent four different nations which have, not varied interests, but very distinct ones. The only person whocan ask the question is the one who can represent the interest of the nation. I think, therefore, that the Tribunal should allow us to ask these questions when we wish to do so.

THE PRESIDENT: M. Dubost, you aren't applying now, are you, for leave to have a third cross-examination, but you are just speaking on general principles?

M. DUBOST: Mr. President, it is a question of principle. The prosecution has limited itself in order to economize on time, but it requests the Tribunal for authorization to intercede, when it is necessary to do so, in order to represent the interests of a country.

I will not ask any questions which occurred to me following the interrogation of my colleague of the United States; I do not wish to retard the proceedings. However, I think that the Tribunal could tell us that, in principle, we may remain free to ask questions which concern our countries, more expecially, when we alone are competent to represent the interests of our countries and we cannot transfer this confidence to one of our colleagues.

THE PRESIDENT: Colonel Smirnov, could you inform the Tribunal as to what points you wish to cross-examine upon?

COLONEL SMIRNOV: Yes, Mr. President. Yesterday, when the defendant was replying to questions of Colonel Amen, he was denying his participation in the extermination of the Jews in the Warsaw Ghetto. He stated then that the Police Fuehrer of occupied Poland, Krueger, was directly subordinated to Himmler and had absolutely nothing to do with

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Kaltenbrunner.

In the Polish documents, which have just been submitted to me and which have been entrusted to me by the Polish Delegation--

THE PRESIDENT: I understand that point. Are there other points?

COLONEL SMIRNOV: Finally, the second point refers to one document which was submitted previously by the Soviet Delegation, and which was not taken up by the first prosecutor, but which is of special interest to us.

There are two short questions which I would like to put to the defendant.

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THE PRESIDENT: You are aware that we are going to adjourn at half past twelve for the purpose of dealing with the documents of the Defendant Rosenberg, but you may certainly cross-examine upon these points if you will do it as shortly as you can.

COLONEL SMIRNOV: I believe, Mr. President, that we will be able to manage it.

BY COLONEL SMIRNOV:

Q Witness, yesterday Colonel Amen submitted to the Tribunal a document which disclosed your participation in the extermination of the Warsaw Ghetto. Rebutting this document, you stated in detail that the head of the police in occupied territories were directly subordinated to Reichsfuehrer SS Himmler and had nothing to do with you. Do you confirm this statement?

A Yes. That requires supplementation. I said yesterday that the higher SS and police leader in the Government General was under Himmler and that in turn the SS and police leaders were under Himmler. As far as smaller districts were concerned, the higher SS and police leaders were the commanders in the sectors or the security police and Waffen SS. The same applies to the SS and police leader in smaller districts.

Q Maybe you remember your second statement. Did I rightly understand you when you said that you were opposed to the so-called extreme tendencies of Krueger as regards the Polish Jews, and you even strove to hold him back?

A I have stated that in agreement with Frank I wasin favor of having Krueger relieved and transferred elsewhere from the Government General.

Q I would like to show the Defendant Frank's diary and will ask him to see page 13, where Krueger speaks, and then page 16. I will now read three paragraphs from this page, page 16. Read and tell us if that is rightly translated:

"There is no doubt", says Krueger, "that the extermination of the Jews influenced the pacification."

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A That passage has not yet been put before me here. I am on page 13 of the document.

Q Well, then, we will show you page 16, beginning with the words, "there is no doubt." I begin again:

"There is no doubt that the extermination of the Jews influenced pacification measures. The police were obliged to carry out the most difficult and most disagreeable tasks, but this was carried out under order of the Fuehrer in the interest of the defense of Europe. We are compelled to exterminate the Jews also in war industries."

I skip a paragraph and ask you to do so too.

"We are compelled to exterminate the Jews also in war industrial plants and from the sectors working for the war industry, if their utilization was not provoked exclusively by extraordinary arguments of military character. The Reichsfuehrer wishes too that even these Jews should also be exterminated. In that respect Zeireis (?) had talked with General Schindler, and we believe that this wish of the Reichsfuehrer

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cannot be carried out in full. Among the Jewish workers there are specialists --mechanics and other qualified workers--who cannot be replaced by Poles."

I draw your attention to the next sentence:

"He therefore requests of SS Gruppenfuehrer Dr. Kaltenbrunner to report this to the Reichsfuehrer and to beg him not to insist on the extermination of these Jewish workers and to leave in the war industrial plants only those Jewish workers who are in good health--so-called "Maccabaeers." We have also come to the same conclusion while exterminating the Warsaw Ghetto. The fulfilling of this task entailed great difficulties."

I skip another sentence and read further:

"There is certain information that the Jews defended themselves to the last, weapons in hand, against the SS and police units."

Does this exerpt prove that Krueger considered you as his chief, and when a greater part of the Polish Jews were exterminated and only a few good specialists remained the extermination would have been harmful to the war industries and that Krueger wrote to you, SSpolice chief, to beg Himmler to let them live? Does this not show that Krueger considered you as his chief and acted through you

A No, Mr. Prosecutor. This document proves something quite different. He himself says that the clearing of the Ghetto at Warsaw had happened before that particular date, and that further he says that he requests that I should go to Himmler to intervene.

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What I said there is not contained in the document. On that occasion I stated to Himmler for the first time, "Now I know what is going on." Just how I talked against that is not contained in your document. But I must be given the opportunity to state and prove here that I intervened against these actions and when you cross examine Frank and his witnesses you will come to the conclusion that I am right. I have not finished talking.

If you ask these witnesses questions about the Government General, then you will most certainly find out exactly how at that opportunity I made my first and only visit to the Government General and that I made my experiences the subject of a conference and report to Himmler.

You can't accuse me here that on one side I am supposed to have had knowledge of all these things and on the other hand not give me the possibility to say how I reacted. In the last two years of the war I came into a position where I could begin to learn about the situation in the Reich and later on the situation in the Government General. But you aren't giving me a possibility to say, "How did this man react to what he learned, that man who, unfortunately, at the end of the war was a superior official."

Q Why did Kreuger act through you?

A And then, nothing is expressed in this document in what capacity I had gone there. It merely mentions that I had been there as a police official It doesn't state that. The only thing he knows is, of course, that I as the chief of the intelligence service was there and that I had to report to Himmler in that capacity, and so he is asking me that I should report on this matter too. Krueger was secretary of state for the security system in the Government General. He was secretary of state there, and as secretary of state he was under the Government General.

THE PRESIDENT: You are going too fast and you are making far too much of a speech.

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A As Secretary of State for police matters in the Government General, he was immediately subor inate to Himmler. That must be known.

Q I beg you to answer briefly. Did Krueger ask you to report to Himmler on this subject? That is the only thing I am asking you.

A As far as I know this meeting was a large meeting of administrative officials and everybody talked to everyone else, who was close to the Fuehrer or Himmler, and asked him to give an explanation.

Q Tell me yes or no. Did he ask you to speak to Himmler or not? Then I will put another question to you.

A You are not allowing me to finish.

THE PRESIDENT: What did you say to the last question? Wasn't the question "Did you go there?" Colonel Smirnov?

COLONEL SMIRNOV: I had another question to put, Mr. President.

THE PRESIDENT: I am asking you what your last question was.

COLONEL SMIRNOV: I was asking the defendant to answer this question and to refrain from making speeches.

THE PRESIDENT: What was your last question?

COLONEL SMIRNOV: This was the last question: Did Krueger ask Kaltenbrunner to report to Himmler on this subject; and the second question -- Do you want me to tell you the second question?

THE PRESIDENT: I wanted him to answer your question. Will you tell him you want him to answer. Don't ask him two questions; ask him one question. Can't you hear what I said?

COLONEL SMIRNOV: Yes.

THE PRESIDENT: Ask him one question and see whether you can try and get him to answer it.

BY COLONEL SMIRNOV:

Q Did Krueger ask you to report this to Himmler, or don't you remember this?

A It may be that he did ask me but not as a superior. You must put yourself in that situation and you must realize what number of people there were; that must also become apparent from the diary. I didn't go

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there as the Chief of the Security Police or as Krueger's superior but Krueger, like masses of other men, dozens of other men, made a speech regarding the food situation.

Q I would like you to refrain from further argument. You answered my question and that is enough.

DR. SEIDL: Mr. President, the defendant Kaltenbrunner hashad a quotation from Frank's diary read to him. That diary consists of 42 volumes and I should like to suggest that the prosecutor mention the place and the volume and the date of the entry, so that one can establish in what connection the statement appears.

COLONEL SMIRNOV: It is an original copy of Frank's diary and, therefore, I think there can be no doubt as to the authenticity of this document. It is a working conference for 1943, and page 16, and the document is registered as US Exhibit 600.

THE PRESIDENT: He asked you if that has a date.

COLONEL SMIRNOV: This conference was the 31st of May 1943.

THE PRESIDENT: That is what Dr. Seidl wants to know.

COLONEL SMIRNOV: I have another short question to put to the defendant.

THE PRESIDENT: Go on.

BY COLONEL SMIRNOV:

Q If the defendant wasonly occupied with purely informational matters and had no other activity, did he consider the reception of one million Tumans for the buying of votes in Iran as a part of his activity?

A Tumans for the voting in Iran? That was certainly nothing I had to carry out but I admit that, of course, agents from my intelligence did work in Iran.

Q Did you beg one million Tumans from Ribbentrop? Did you ask Ribbentrop to give you one million Tumans?

A No, I had enough finance to pay my own agents.

Q This is a letter of the defendant Kaltenbrunner, which was already submitted as USSR Exhibit 618. Ribbentrop admitted that matter regarding the one million Tumans. Does the defendant rebut this

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evidence of defendant Ribbentrop?

A I believe that I never demanded money from Ribbentrop and I think I had enough money for my own purposes, but show me the letter. It is perfectly possible. I had enough finance at my disposal to run that intelligence service.

Q The original was already submitted to the Tribunal during the interrogation of Ribbentrop. This is only a copy but, of course, the original of it can be found. It said that in order to exert an influence on the elections they need 400,000 for Teheran and at least 600,000 Tumans for Iran. The last sentence says "I beg you to tell us whether it is possible to get one million Tumans from the Minister of Foreign Affairs. We will be able to transfer this money with people who had been sent there. (Signed* Heil Hitler, yours faithfully, SS Obergruppenfuehrer Kaltenbrunner." Ribbentrop admitted that. Do you deny this evidence?

A I wouldn't dream of it but I want to add that as far as this document is concerned, I can't recollect it as easily as all that because it was written in, I think, 1936. I didn't know the contents or can remember it and I know that it was certainly -- it is a letter to the Minister in the Reich which, for reasons of fact, I would have had to sign myself personally. On the subject as such, I am grateful that the last question in this cross-examination is a question which actually refers to my own sphere of activities. You are the first prosecutor to whom I have to express my thanks in this connection and who can at least no longer conceal that my activities extended as far as Iran, that my agents and my activities extended as far as Iran.

Q Is that your signature?

A Yes.

COLONEL SMIRNOV: I have no further questions to put to this defendant, Mr. President.

THE PRESIDENT: What document is that you put to him?

COLONEL SMIRNOV: This is document USSR Exhibit 178, Mr. President.

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THE PRESIDENT: 178?

COLONEL SMIRNOV: 178, yes; that is Kaltenbrunner's letter to von Ribbentrop, Minister of Foreign Affairs, dated 28th of June 1943.

THE PRESIDENT: Very well. Thank you. Now, the Tribunal will deal with Dr. Thoma's documents for Rosenberg. Is the prosecution ready? Are you ready, Mr. Dodd?

MR. DODD: Yes, your Honor.

THE PRESIDENT: Would it be convenient for Mr. Dodd to tell us how the position stands? Would it be agreeable to you, Dr. Thoma, if Mr. Dodd tells us how the position stands?

DR. THOMA: Yes.

MR. DODD: Dr. Thoma has presented three documents and there are two volumes to the first book -- two parts, two volumes, and I should like to take up first, volumes one and two of the first document book. In the first volume one --

THE PRESIDENT: The Tribunal has already looked at these volumes.

MR. DODD: Well, there is contained in the book and there has been submitted to you a number of authorities, starting with that first document by Falkenberg, "The History of Modern Philosophy", and running down to the "Introduction to National Psychology", by Hellpach, and really, as we understand the ruling of the Court, on the 8th of March it stated that these books could be used, as far as is appropriate for the purpose of argument and to this end, they should be produced and made available to defense counsel; and the Court went on to say that any particular passage which counsel for the defense wish to quote should be incorporated in the document book for translation.

We object to all of these excerpts and for mostly the same reasons and I think I can discuss them as a group rather than individually.

THE PRESIDENT: Mr. Dodd, I don't think we need trouble you upon these documents. We have read them and we only wish to hear any arguments which Dr. Thoma desires to make comments upon.

DR. THOMA: Mr. President, I would like to stress only the legal point

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of views. I would only like to introduce the legal point of views. The Tribunal has to decide whether there is any connection between Rosenberg's idology and the crimes against Jews. As such, I assert that besides that ideology, there are other connecting conditions which have contributed to the establishment of this historical situation, but the main question is this: Did Rosenberg become partly guilty and did he realize the possibility of the dangerous character of his works?

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The next question is what is the form, the character of his guilt; if Rosenberg was convinced of the correctness of his deas and if the dangerous result of those ideas was not known to him. Thus I propose to quote facts fr which it becomes apparent that his ideas were backed and represented and see from the view point of exact science.

In this connection I wnat to state that other states too nade certain national socialist demands, for instance regarding the privilige in connecti with the growing of worthless life. They did so before Rosenberg appeared and introduced such demands. Furthermore, I want to point out what the results were of biological investigation of the natural basis of making and tl results which this had inhibiting the liberty of man. I want to point out th consequences of that period. I want to draw your attention to irrational views even in the empirical rational time and I want to put out to you what the laws were regarding philosophical conceptions and political movements which were partly forseeable. These facts, established by science, may prov that Rosenberg did not realize the danger of his idealogy or that he undere: timated that and that he could not have known about it at the time, namely what the character of these ideas were. This probably alters his guilt to a considerable extent.

In my opinion the question of negligence comes into it and must be investigated. These theses should be proved on the basis of the scientific wo of the authors which I am porposing to quote, from the philosphical works o various philisphers

Gentlemen of the Tribunal, the belief that the philosphy of the irrati nal may have been employed for political purposes may appear nonsensical bu I point out that as late as fifteen years ago there were preachings in Ger saying that politics which were infringing on the ethical demands of Chris: andom should be considered nonsenical because Christianethics did not beco applicable to the political atmosphere. We know today that this is possibl and that is the reason why I am pleading before the Tribunal and because o the difficult considerations they are justified in being here, in my opini

That is only one example of the significance of the irrational in pol: tics, the belief in the power of the ideal and the moral power. But the qu

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tion of the casual connection between Rosenberg's idealogy and war crimes may not be mistaken ot mixed up with the accusation of the actual participation of Rosenberg in the murders of Jews and the crimes in the East. As to that the situation is different. The actual participation of Rosenberg in these matters will have to be proved wrong by me by another special effort.

I would like to draw your attention to yet one other important viewpoint The organizations, ttoo are indicted, the members of which had originally stood under the influence of Christiandom and the so-called youth movement and who allowed themselves to be won over the National Socialism because they believed that in that they would see the possibility for exercising their Christian ideas.

They too have a right to ask this Tribunal be told what they, these people believed in and what these people were taught.

I believe that this statement of mine will have made it clear that I am not trying to deliver an empirical lecture but that these are important legal questions before this Tribunal.

If any authors are quoted here which appear unsuitable then I will forfeit quoting them. Perhaps Lapouge may not be suitable at all and I will withdraw him. But he particularly proves that certain idealogical laws, even in the legislation of other states, have been employed but Mr. Justice Jacks on objected to a passage from Lapouge and I am prepared to withdraw it.

There are one or two works of Martin Buber whichIamwillingto forego. But I wanted to use Martin Buber particularly to prove that we are here concerned with principles which have nothing to do what soever with anti-semitism but this is merely a philosophy which is just as justified as the philosphy of instruction during the last centuries.

I am asking this Tribunal to take cognizance of evidence which proves the real spiritual factsconnected with the trial. If I did state these things in my presentation then I would not present it of my own knowledge but I do not want to do that and so I need these books.

THE PRESIDENT: Mr.Dodd, we understand that you object to all up to that book of Hellpach.Then, with reference to the other volumes, the others are all Rosenberg's documents are they not ? The two last are in the same category I suppose as the ones down to Hellpach, are they not?

MR.DODD: Yes, There are also some quotations from newspapers.

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contained in the document book on pages 182 to 185. We also object to them.

THE PRESIDENT: Are they in volume two?

MR. DODD: Yes, they are in volume 2 of book 1.

THE PRESIDENT: I was dealing, at the moment, with volume one of document book one.

MR. DODD: Those are the objections in volume one.

THE PRESIDENT: Then, you are not objecting to his other books?

MR. DODD: No, your Honor, we are not.

THE PRESIDENT: In book 2 there is not an index, is there?

MR. DODD: We have no objection to anything that is contained in book 2.

THE PRESIDENT: In volume two of book one?

MR. DODD: We were talking about volume two, book one, is that right?

THE PRESIDENT: Very well, yes I see. Then in book two you do not object to book two?

MR. DODD: No, we do not.

THE PRESIDENT: Nor book three?

MR. DODD: We have no objection to book three. I think our Russian colleagues have an objection to the affidavit of Dr. Denker. I would prefer, however, that they address the Tribunal on that subject themselves.

THE PRESIDENT: And then, is there is fourth book?

MR. DODD: No, your Honor, there is not but we have not talked about the second part of the first book.

THE PRESIDENT: Iwas told that you had.

MR. DODD: No, I think not. I did mention the newspaper articles.

THE PRESIDENT: Where are these documents that you are referring to? Are they in the second volume of the first book?

MR. DODD: The first one will be found beginning on page 182 of that second volume of the first book.

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THE PRESIDENT: Yes, those are the last two in the index.

MR. DODD: Yes they are.

THE PRESIDENT: We understand that you are objecting to them.

MR. DODD: Very well.

THE PRESIDENT: But the index in the first volume of the first book is the index for both the volumes.

MR. DODD: Yes, it is.

THE PRESIDENT: What is your objection to all his documents up to Hellpach and the last two?

MR. DODD: Yes, that is exactly right.

THE PRESIDENT: I understand.

With reference to books two and three you do not object but the Soviet Union wish to offer an objection to this affidavit by Professor Denker.

MR. DODD: That is exactly right, your Honor.

THE PRESIDENT: Perhaps we had better hear what the Soviets say about that.

GENERAL RAGINSKY: I beg the Tribunal to pay attention to document Rosenberg 38. This is in the third book of documents, page 29. This document is a latter, dated 24 August, 1931.

THE PRESIDENT: One moment, is it not an affidavit?

GENERAL RAGINSKY: No. I am referring to two documents, your Honor, document Rosenberg 38 and the second one concerns the affidavit of Denker.

THE PRESIDENT: All right, we will deal with document 38 first, that is page 29.

GENERAL RAGINSKY: Yes, that is right, page 29.

This document is a latter of an unknown merchant addressed to Rosenberg, concerning some sort of newspaper article. We do not know this paper as defense counsel Dr. Thoma hasnot submitted it and therefore we believe it is not relevant, all the more so that in one of the applications and in one of the explanations submitted, Dr. Thoma did not

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explain what this document was supposed to prove.

I would then like to give a few explanations regarding the objection of the affidavit of Denker.

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This affidavit is also in book 3, from page 8 to 11, and is Rosenberg Exhibit No. 35. We see that Dencker is a former member of our staff and took part in the commission of war crimes in the territory occupied by the German troops. Dencker took part in the plundering of the occupied territories of the Soviet Union.

I wish to draw the attention of the Tribunal to the fact that Dr. Thoma on the 6th of April of this year, requested the Tribunal to allow the admission of this document. The general undersecretary of the Tribunal asked the opinion of the Prosecution. However, before the Prosecution had taken the stand, these affidavits were put into document book and translated. What are these affidavits? We consider, and it is very easy to prove, that all the information given in these affidavits are false or give an inexact picture of actual facts. They contain a number of false statements, which, of course have already been refuted in documents submitted to the Tribunal, and are read into the record.

Dencker has not been called as a witness and we are therefore, deprived the possibility of cross-examining him. We consider that these documents should not be admitted.

THE PRESIDENT: Yes, Dr. Thoma.

DR. THOMA: Gentlemen, I am agreeable that Dr. Dencker, who states that 180,000,000 tractors and other agricultural material was taken to the Ukraine should be called as a witness. But this document is of incredible significance to prove what was constructed; that the land was not stupidly exploited, but that long term plans were being made in the interest of the country and the population. I therefore ask the Tribunal that this affidavit be admitted in evidence, and, if necessary, I would make an application that Professor Dencker be called as a witness, in case the Tribunal should be impressed by the statement of the Soviet Prosecutor.

THE PRESIDENT: Yes.

DR. THOMA: Furthermore, Mr. President, I want to apologize as to the previous objection to document book No. 3. It was not understood by me because I do not have my document book No. 3 with me, and I do not know what it is all about.

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THE PRESIDENT: The other thing was, on page 29 is a letter, addressed to Rosenberg by somebody without any signature. It is Rosenberg's speech.-

DR. THOMA: Oh yes, but that document has been passed by the Tribunal, and the signature is "Adolph Hitler". Apparently, the typist had not been able to read that.

THE PRESIDENT: Well, it is a Hitler letter, is it?

DR. THOMA: Yes, sir; it has been granted me. It has already been granted to me, gentlemen.

I beg to apologize; I am still quite clear. Is Hellpack the only documer granted me in my Hellpack document book or does this mean that only Mr. Hellpack may be quoted, as to Mr. Dodd's objection, and nothing else at all, in which case I should like to have an opportunity to speak in detail about the other offers so I can tell you what I am trying to prove with them?

THE PRESIDENT: Dr. Thoma, we have not made any decision yet.

DR. THOMA: Yes.

THE PRESIDENT: We thought that you had given us the reasons in support of the documents in book 1, volume 1 and 2

DR. THOMA: Yes.

THE PRESIDENT: If you have given us the reason, it is not necessary for you to say anything further.

DR. THOMA: Yes, but, Mr.President, I thought that, with reference to the individual books, I ought to say very briefly what I am going to use ther for; what I am going to prove with them. With Messer, Tillich, Leeuw and Bergson, I am trying to prove that the new romanticism, that is this national philosophy, did with elementary forces break out in Germany, and that it was influenced by philosophers of a French origin -- or French or American.

Secondly, I wanted to prove that this philosophy is not anti-Semitic, but that it is to the contrary. Martin Buber not only speaks for its employment in practice but also orders it. Particularly, in Martin Buber's works have we got these decisive expressions, which are playing an important part in this trial, the significance of blood, the connections of the blood, the connections of national characteristics in living space, the conception of movement, the figure of inheritage, and so on and so forth. And then, gentle-

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men of the Tribunal, these quotations from Bergson, Buber, Keiter; I want to state in connection with them that these personalities are not National Socialists, but that, in fact, some of them were fighting.

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against the ideology of Rosenberg's; but they are the proof for the fact that the ideas of race, people, nation, blood, and soil, are recognized by expert scientists on biology. And Hellpach, in the introduction of world pschology, makes that terribly important statement-and Hellpach is a very famous name in the whole German literature--that every theses will lead to a super-theses and a degenerati.

Gentlemen, I have only one brief remark to make on the subject. In the last number of the "Die Neus Zeitung" it states that in the French paper "Constitution" --and there was a basic argument, an important argument, in this present time; namely, that "we are here concerned with the rights of mankind", and that "one has not investigated which inner attitude men had who were members of the resistance movements"; and one had stated certain theses regarding the liberty and the crisis in human right and certain contradictions were pointed out. And, gentlemen, something was stated which was as follows:

"There is a contradiction between the announcement of liberty and the increasing technique of slavery; and we believe in that there is a contradiction between the growing of material richness and the spiritual consumption; and, thirdly there is a contradiction in every shape of progress, since every completion and perfection appears after certain sensations of diffidence have also appeared. Fourthly, there is a contradiction between a humane ideal of the Eighteenth Century and the discoveries of science of man, regarding biology, the deep psychology which represent his ties to the laws of nature. Fifthly, there is a contradiction between the situation created by superficial influence, as paper, pree, radio, and all means of propaganda, which would have lead to an influencing of the masses on one side, and the disappearence of the thinking and highly educated elite."

And that was the argument of the present French parliment, where it has been discussed in recent days, and that is why I am asking you, gentlemen, that such questions should be discussed in this trial, since they are decisive for the political and spiritual attitude for our people.

The idea of the national principle may bring with it the highest ethical points of views, and whether they have deteriorated; that is important and biological development which, of course, includes a certain amount of guilt.

THE PRESIDENT: Have you finished, Dr Thoma? Have you finished what you want to say?

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DR. THOMA: Yes, sir.

THE PRESIDENT: The Tribunal, of course, has not made its decision yet and it will consider your arguments. But I am bound to point out to you that there is no charge in the indictment or made in this case against the Defendant Rosenberg either that he invented his philosophy or that he held certain philosophical ideas The charge against him is that he made a certain use of his philosophical ideas. That is all I have to say. The only other matter which I want to mention to you is an application you made for calling Rosenberg, not first, but at some other point in the course of his case. As totthat, if the Tribunal should come to the conclusion that these other philosophical works are not matters which ought to be considered, is it not really unnecessary to put off the calling of the defendant Rosenberg to some later stage? Would it not be in the interests of extradition that he should be called first?

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DR. THOMA: Mr. President, two points I would like to mention on that. I wasunder the impression that any evidence must begin with the calling of the defendant. I assumed that no documents could possibly be read previously, and that is why I made that application that I might first of all produce some introductory documents so that the examination of the defendant could then take place smoothly. The documentswill probably produce speedy evidence.

Furthermore, I had asked that the witness Riecke, who is also a quick introductory to the Eastern question and particularly to the army question, also could be expedited if he would be heard before Rosenberg. That is how I worked it out, so that I would first of all like to read the most important documents--not the ideological ones but those that refer to the administration of the East, and then I would like to call Riecke, and then the defendant Rosenberg.

THE PRESIDENT: The Tribunal has already indicated that, in its opinion, in every ordinary case, it tends to expedition if the defendant is called first, and, of course, any documents which are material can be put to the defendant in the course of his evidence for any explanation that he may have to give upon them.

DR. THOMA: I believe, High Tribunal, that if I could make quite brief remarks in connection with the documents, it would be even more expeditious than if Rosenberg were to make lengthy statements on these documents of his. That is why I thought I would introduce some of the

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documents, at any rate, at the beginning--only to save time.

THE PRESIDENT: Well, in order that you should be prepared and able to go on on Monday morning, The Tribunal, having considered this matter, rules that Rosenberg should be called first. That is the ruling of the Tribunal.

As to documents, we will consider what our judgment should be with reference to the documents that are objected to.

I said Monday morning. I beg your pardon. I meant at the end of the defendant Kaltenbrunner's case.

DR. THOMA: High Tribunal, just one brief argument with reference to the question of the ideology of Rosenberg. I am asking the Tribunal to read the statement by M. Menthon, who states that that ideology was criminal since it was interconnected with his activity, not only as the editor of the Voelkisher Beobachter, but he is referring to the mythology that he had as bringing about the pyschological preparation of the German nation.

THE PRESIDENT: I said that it was not a question of what was the origin of his philosophy or the mere holding of his philosophical idears, but the use to which he put these philosophical idears that is charged against him.

MR. DODD: If Your Honor please, I want to make it clear that we do object to the works of Hellpach.

THE PRESIDENT: Yes, absolutely.

MR.DODD: Dr. Dix had asked me that his documents be heard today.

THE PRESIDENT: I think it is too late now, but we will consider them shortly if Dr. Dix wishes it. We will consider them very soon.

DR. DIX (Counsel for Defendant Schacht): We have discussed it , Your Honor, first of all with Sir David and then I have discussed it with Mr. Dodd, and Mr. Albrecht, and these gentlemen have decided that they should be brought before the Court, but translations have not yet been made, and a decision would have to be made soon so that the necessary work could be carried out. I would be grateful if on Monday we could come to that.

THE PRESIDENT: We will try to do it on Monday.

(Whereupon the Tribunal adjourned at 1320 hours, to reconvene at 1000 hours, 15 April 1946.)